IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 785 OF 1992

The Union of India..... ... Appellant.

Versus

M/s.Daguji Bhaurao..... .... Respondent.

Mr. A. N. Samant for the Appellant.

Mr. G. J. Mohanrao for the Respondent.

CORAM : ANOOP V. MOHTA, J.

DATED : 6TH DECEMBER, 2005.

P.C. :

Heard learned Counsel for the parties.

2. This is an appeal filed by the General Manager, Central Railway against the order passed by the Vice Chairman (Judicial) of Railway Claims Tribunal in Transferred Application No. 1235 of 1990 whereby the appellant herein have been ordered to pay Rs.4,139/-

to the respondent herein with interest at the rate of 12 per cent per annum from the date of the application till realisation and proportionate costs.

3. All contentions raised by the learned Counsel appearing for the appellant herein has been considered and decided in a similar case being First Appeal No. 1136 of 1992 **(Union of India v/s M/s.Eknath Khemchand)** decided by the Honourable Shri Justice D. G. Deshpande by an order passed on 6th May, 2005. Based on that the present appeal can also be disposed of.

4. In this matter as the issue of limitation was not raised before the Tribunal, I am not inclined to permit to raise at this stage in the First Appeal.

5. In view of this and considering the fact and circumstances of the present case, as it is similarly situated, and also looking to the small involvement of monetory claim, the following order is passed:

O R D E R

(a) This appeal is partly allowed. The liability of payment will be of General

Manager, Central Railway Zone. The principal amount awarded shall carry interest at the rate of 4% p.a. from the date of the application till deposit. The amount, that is deposited, if found in excess after the aforesaid calculation shall be refunded / returned to the Central Railway / Appellant.

(b) The respondents shall be at liberty to withdraw the amount as per the calculation.

(c) The first appeal is disposed of, accordingly. There shall be no order as to costs.

Sd/-

(ANOOP V. MOHTA, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2807 OF 2002

IN

FIRST APPEAL NO. 785 OF 1992

The Union of India..... ... Appellant.

Versus

M/s.Daguji Bhaurao..... .... Respondent.

Mr. A. N. Samant for the Appellant.

Mr. G. J. Mohanrao for the Respondent.

CORAM : ANOOP V. MOHTA, J.

DATED : 6TH DECEMBER, 2005.

P.C. :

In view of the order passed in the First Appeal, this Civil Application is disposed of.

Sd/-

(ANOOP V. MOHTA, J.)